

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT S.D. BERGEN, )  
 ) Case No. C06-819-RSL  
Petitioner, )  
 )  
v. )  
 ) ORDER TRANSFERRING  
DR. HENRY RICHARDS, ) § 2254 PETITION  
 )  
Respondent. )  
 )  
 )  
 )

The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, respondent's motion to dismiss, the Report and Recommendation of the Honorable James P. Donohue, United States Magistrate Judge, the governing authorities and balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) This case is TRANSFERRED to the United States Court of Appeals for the Ninth Circuit, in the interests of justice, pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a). Petitioner is advised that this transfer does not of itself constitute compliance with § 2244(b)(3) and Circuit Rule 22-3. He must still file a motion for leave to proceed in the Ninth Circuit and make the showing required by § 2244(b)(2).

01 (3) The Clerk is directed to close this case and transfer all original documents to  
02 the Ninth Circuit Court of Appeals. The Clerk is further directed to send a copy of this Order  
03 to petitioner, to counsel for respondent, and to Judge Donohue.

04 DATED this 21<sup>st</sup> day of November, 2006.

06 

07 Robert S. Lasnik  
08 United States District Judge  
09  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26